

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



USPTO Inventor Info Chat Series: Design Patent Application Drawing Requirements

Office of Innovation Development

Susan Bennett Hattan

Eric Goodman

September 21, 2017

Email questions to:
inventorinfochat@uspto.gov

UNITED STATES
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Overview

- What subject matter is protected by a design patent
- Statutory requirements for patentability
- Scope of protection: what is a design?
- Design patent drawings
 - Requirements for drawings
 - Content of drawings
 - Multiple embodiments in drawings
- Multiple patents for segregable parts
- Parts of a design patent application

Send your questions to: inventorinfochat@uspto.gov



Design vs. Utility

- Design Patent – protects the way an article looks (35 U.S.C. § 171)
 - Protects *appearance*
- Utility Patent – protects the way an article is used and works (35 U.S.C. § 101)
 - Protects *functional characteristics*



35 U.S.C. § 171

Patents for Designs

Whoever invents any new, original and ornamental design for an article of manufacture may obtain a patent therefor, subject to the conditions and requirements of this title.



Requirements for Patentability

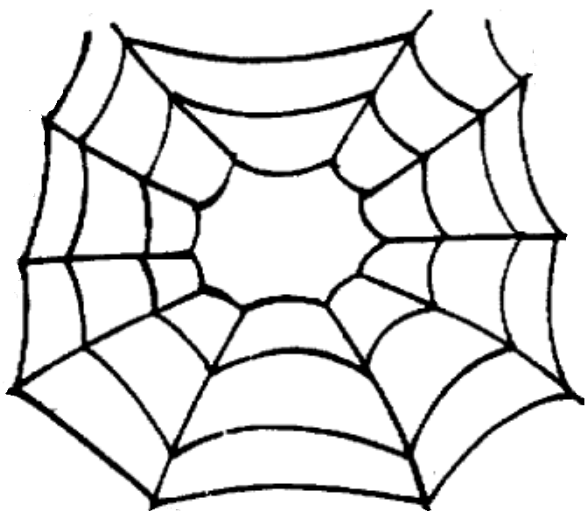
Designs must be:

- new,
- original,
- ornamental, and
- for an article of manufacture



Design “for an article”

Disembodied Design



Not Acceptable

Embodied Design

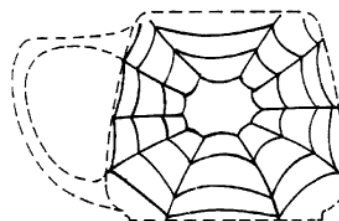


Fig. 1

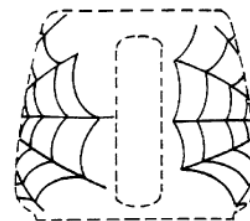


Fig. 2

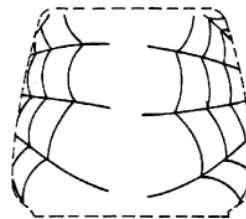


Fig. 3

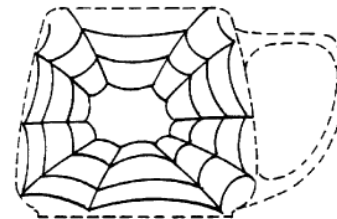
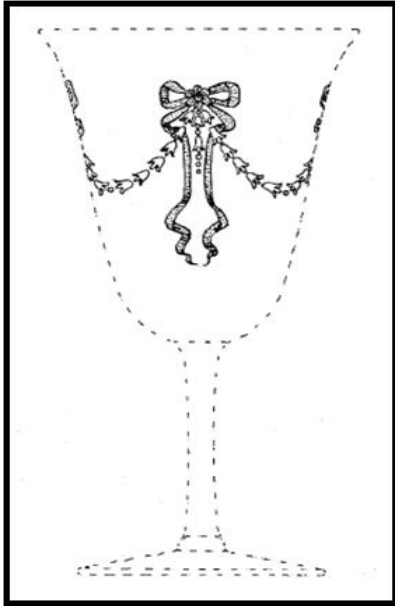


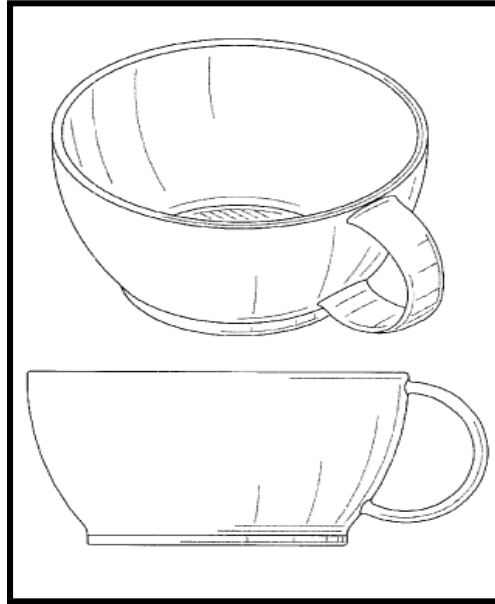
Fig. 4



Scope of Protection: 35 U.S.C. § 171



Surface
ornamentation
applied to an article



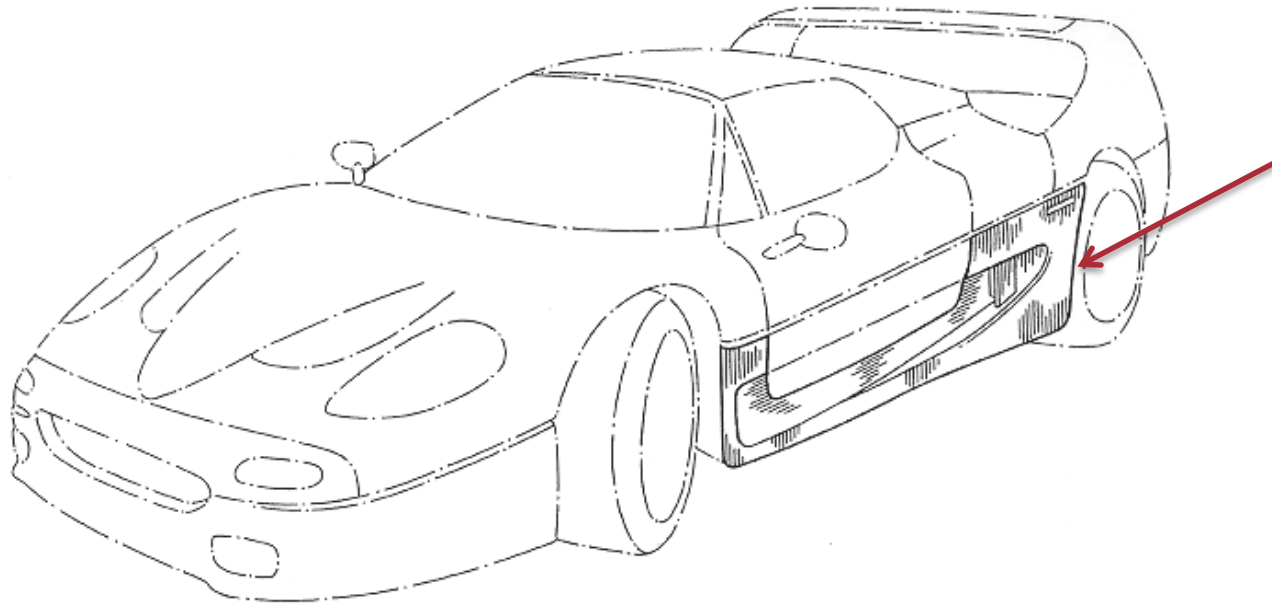
Configuration
embodied in an
article



Configuration and
Surface ornamentation
for an article

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Scope of Protection: 35 U.S.C. § 171



A Design May be Directed to Less than an Entire Article



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Scope of Protection

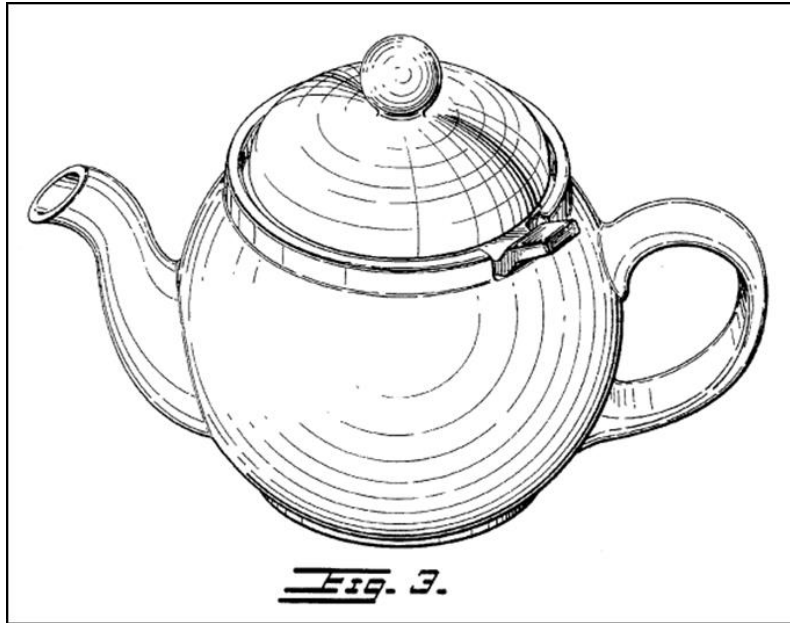
- **Only one claim is permitted**
 - Protects the overall visual appearance of the design “described” in the drawings
- **15 year term from date of issue**
- **6 month period for foreign priority benefit**
- **No provisional Design applications**



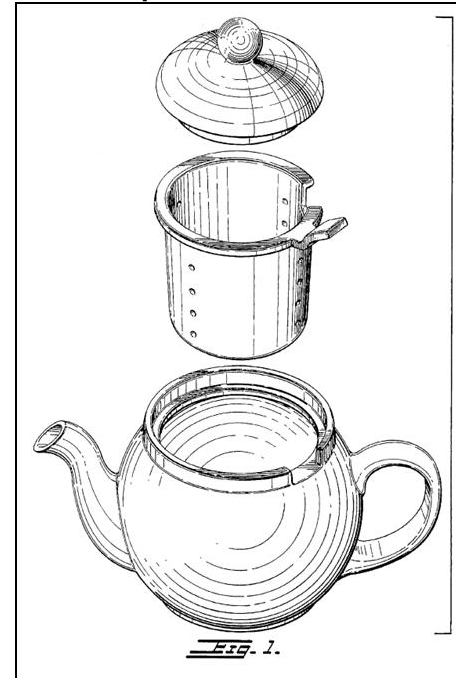
Design Patent Drawings

Separated parts may be displayed as part of the whole design

Assembled Tea Pot



Exploded Tea Pot

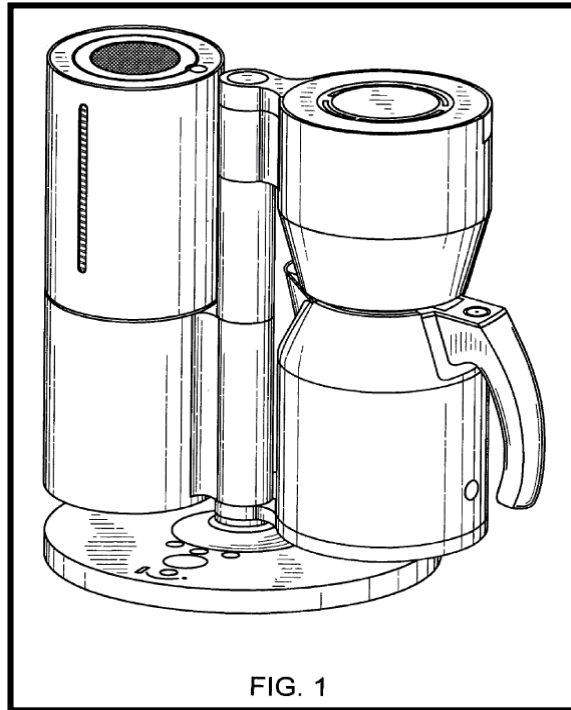


Tea Pot with Insert

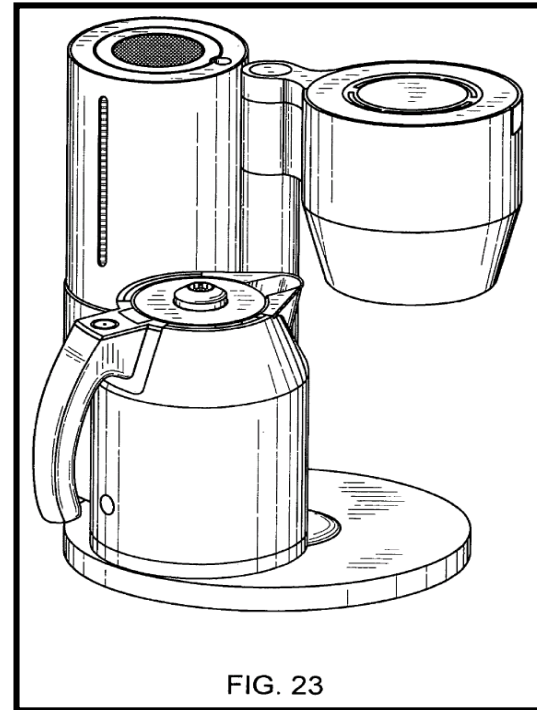
Design Patent Drawings

Alternative configurations included in the design

Coffee Machine



Coffee Machine - Alternative Position

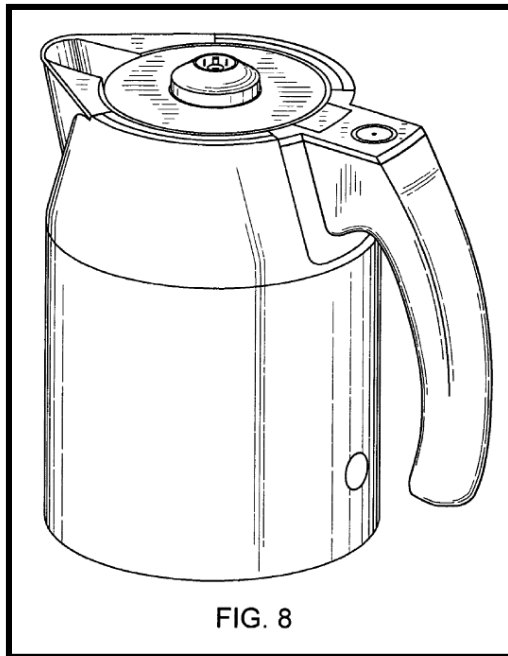


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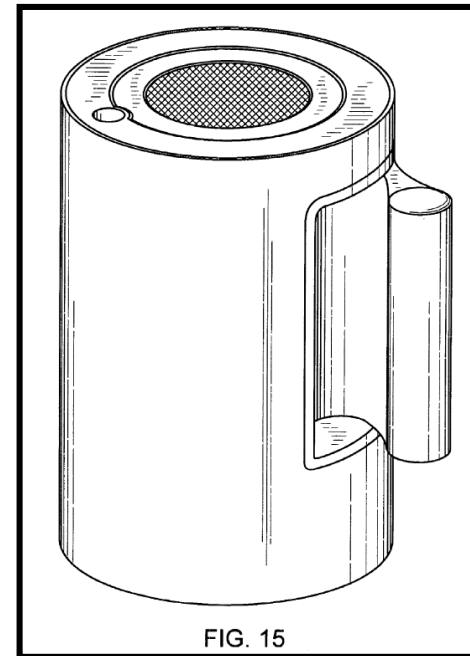
Design Patent Drawings

Portions shown separately along with the whole do not get separate protection

Portion of the Coffee machine

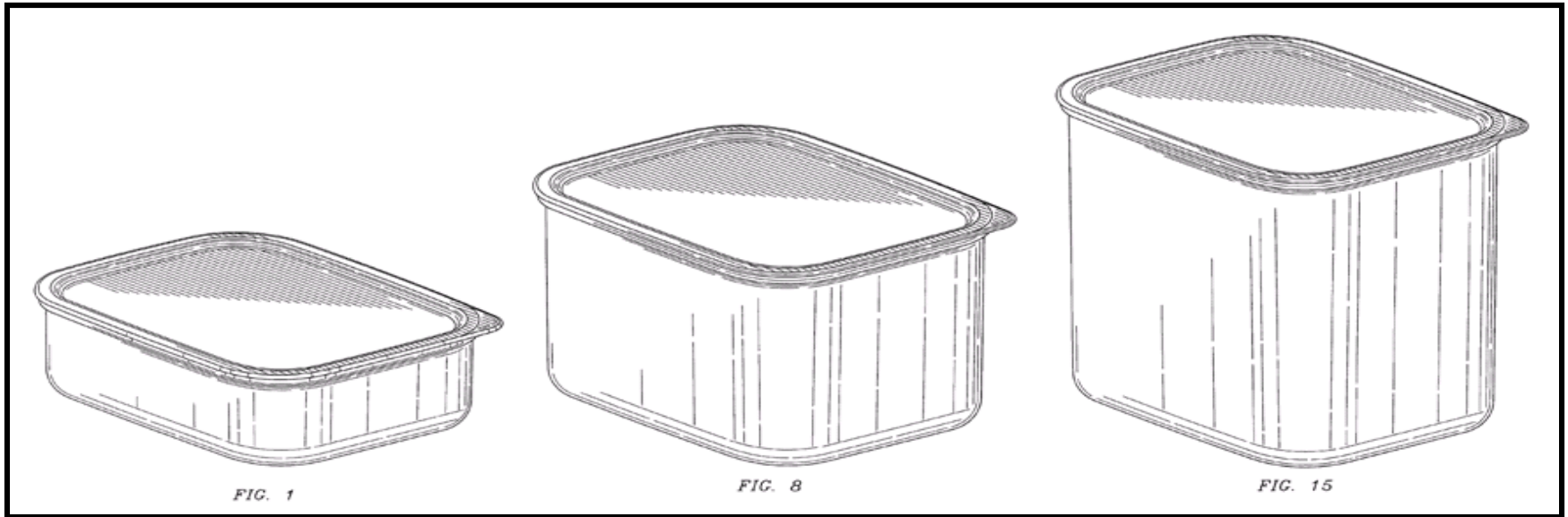


Portion of the Coffee machine



Variants of a Design

Variants of a design may be included in the same patent when the differences are “obvious” in view of case law or the prior art of record.



Exact proportioning involves only ordinary skill.

In re Stevens, 81 USPQ 362 (CCPA 1949)

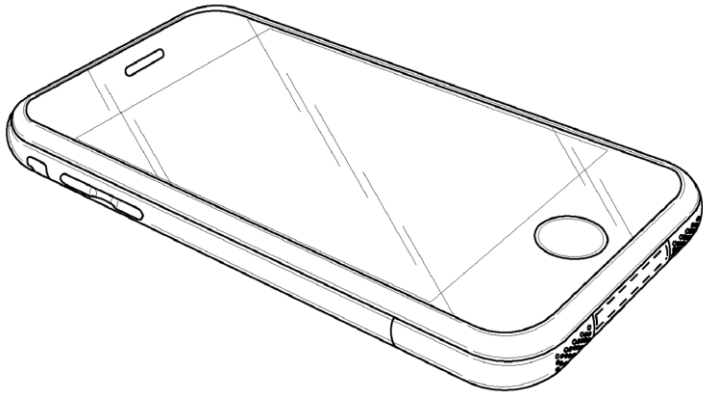
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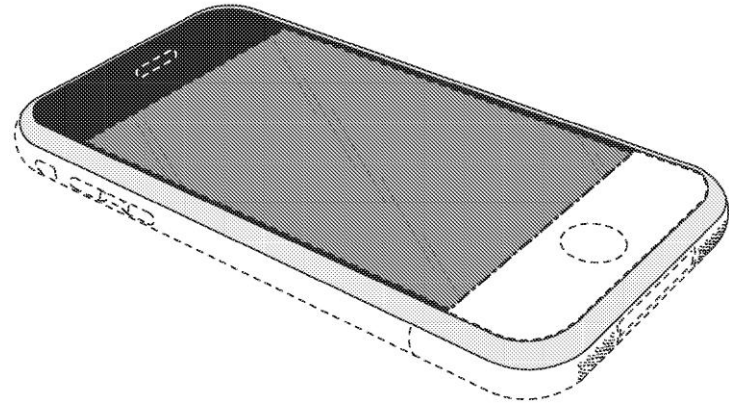
Multiple Design Patents

Separate patents can be used to receive protection for separate portions

US D580,387S



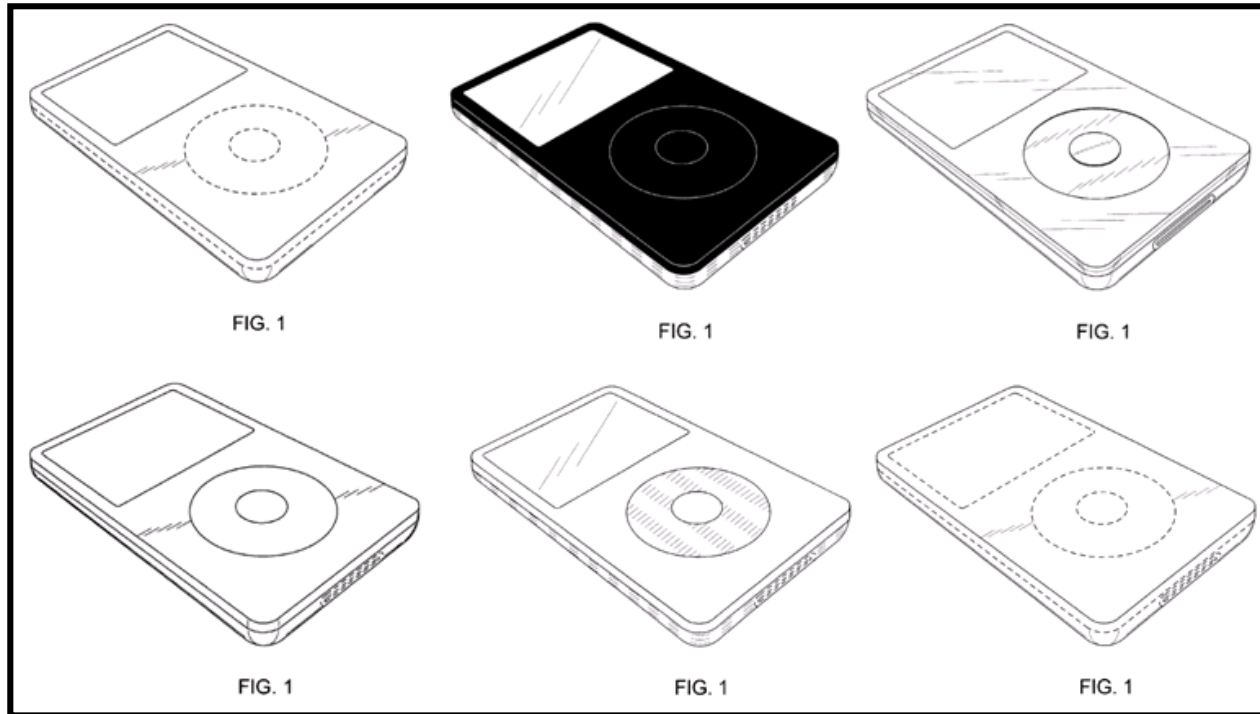
US D581,922S



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Multiple Design Patents

Separate patents covering variants of a design provides thorough protection. Each design is considered “patentably distinct.”



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When Applying for a Design Patent...

What Do I Submit?

A design patent application has essentially the elements required of an application for a utility patent. The arrangement of the elements of a design patent application and the sections of the specification are as specified in 37 CFR 1.154.



Parts of a Design Application

Drawings:

- Show all parts of the design you claim
- Perspective is helpful
- Show parts not claimed with broken lines

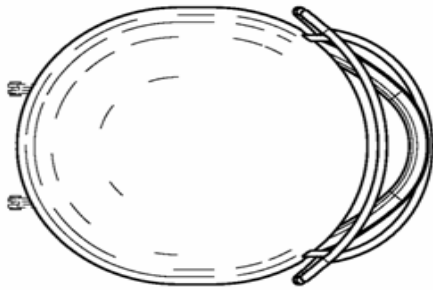


Fig. 1

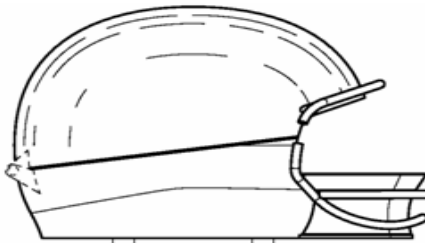


Fig. 2

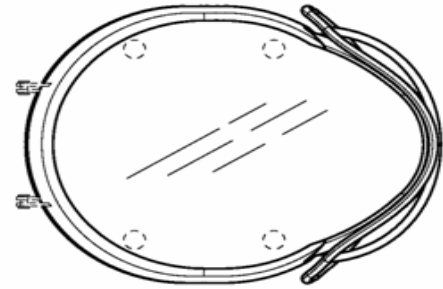


Fig. 3

Parts of a Design Application

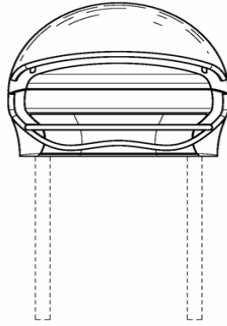


Fig. 4

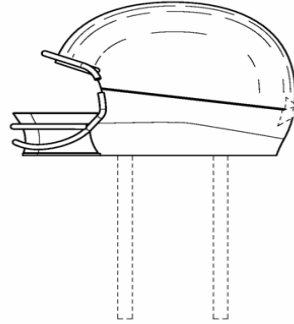


Fig. 5

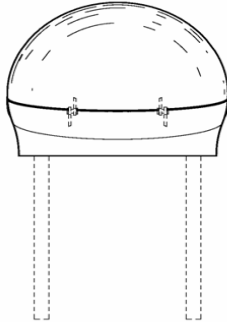


Fig. 6

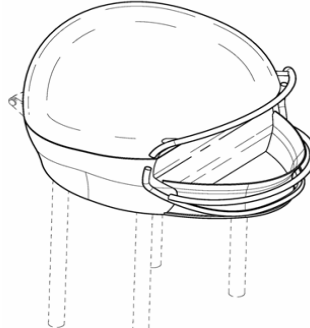


Fig. 7

Parts of a Design Application

Specification:

- Describe each figure
- Describe broken lines
- Include claim

SPECIFICATION

Be it known that I, **Carlos E. Puerto**, citizen of the **United States of America**, have invented a new original and ornamental design for a **HELMET BAR B QUE** of which the following is a specification, reference being had to the accompanying drawing, forming a part thereof, wherein:

Figure 1 is a top plan view of a helmet bar b que;

Figure 2 is a right elevational view thereof;

Figure 3 is a bottom elevational view thereof;

Figure 4 is a front elevational view thereof;

Figure 5 a left elevational view thereof;

Figure 6 a rear elevational view thereof; and

Figure 7 is an isometric view thereof, showing my design.

The broken lines are for environmental purposes only and form no part of the claimed design. The design shown is not to be limited to any particular size and may be scaled larger or smaller.

I Claim:

The ornamental design for a helmet bar b que as shown and described.



Upcoming OID Events

- October 12, 2017 – Patent Quality Chat – Application Readiness Survey
- October 19, 2017– Inventor Info Chat – Patents Overview in Spanish

For more information or to register for any of the above events contact us at oidevents@uspto.gov

<https://www.uspto.gov/patents-application-process/inventor-info-chat>





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Thank You!

Send your questions to:

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1.866.767.3848

Presented By:
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